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09/375,045	08/16/1999	ZULFICAR MURJI	CAN-117	4515

7590

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AUDLEY A CIAMPORCERO JR  
JOHNSON & JOHNSON  
ONE JOHNSON & JOHNSON PLAZA  
NEW BRUNSWICK, NJ 089337003

EXAMINER

KIDWELL, MICHELE M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 08/27/2003

28

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/375,045

Applicant(s)

MURJI, ZULFICAR

Examiner

Michele Kidwell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Arguments***

In view of the Appeal Brief filed on April 8, 2003, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5 – 12, 14 and 16 – 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Glasgow et al. (EP 0 852 938 A2).

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With respect to claim 1, Glasgow et al. (hereinafter Glasgow) disclose a sanitary napkin having a main body with a longitudinal axis, two opposite longitudinal side areas and a central region intermediate said two opposite side areas (figure 12), said sanitary napkin being characterized by a preferential bending zone (81) on the main body extending obliquely from one longitudinal side area of the sanitary napkin to an opposite longitudinal side area and obliquely crossing the longitudinal axis of the sanitary napkin at the central region as set forth in figure 12.

The examiner contends that the central region is considered to be the area immediately prior to the preferential bending zone (81) thereby allowing the preferential bending zone in figure 12 to fall in the central region.

As to claims 3 and 14, Glasgow discloses a sanitary napkin comprising a plurality of preferential bending zones (81,82) spaced apart from one another.

With reference to claims 5 and 16, Glasgow discloses a sanitary napkin wherein the preferential bending zones are operative to create resistance to lateral compression when the sanitary napkin is in use as set forth in col. 8, lines 11 – 21.

With respect to claims 6 and 17, Glasgow discloses a preferential bending zone that is arcuate as set forth in figure 12.

Regarding claims 7 and 18, Glasgow discloses a sanitary napkin wherein the main body includes a fluid permeable cover layer, an absorbent system and a liquid impervious barrier layer as set forth in col. 4, lines 2 – 5.

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Regarding claims 8 – 9 and 19 – 20, Glasgow discloses a sanitary napkin wherein the preferential bending zone is an embossing of the fluid permeable cover layer and on the absorbent system as set forth in col. 9, lines 52 – 57.

With respect to claims 10 and 21, Glasgow discloses the sanitary napkin including a fastener for retaining the main body to an undergarment as set forth in col. 18, lines 43 – 49.

As to claims 11 and 22, Glasgow discloses the fastener including a flap as set forth in figure 19.

Regarding claim 12, Glasgow discloses a sanitary napkin having a main body with a longitudinal axis and two opposite longitudinal side areas (figure 12), said sanitary napkin being characterized by a preferential bending zone (81) on the main body, said preferential bending zone including a segment crossing the longitudinal axis of the sanitary napkin, said segment crossing the longitudinal axis obliquely in relation to the longitudinal axis, said preferential bending zone extending from one longitudinal side area of the sanitary napkin to an opposite longitudinal side area as set forth in figure 12.

Claims 1, 3 – 4, 6 – 7, 9 – 12, 14 – 15, 17 – 18 and 21 – 22 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 297 03 589 U1.

With respect to claims 1, 3 – 4, 6 – 7, 9 – 12, 14 – 15, 17 – 18 and 21 – 22, DE 297 03 589 U1 (hereinafter the '589 patent) discloses a sanitary napkin (including a liquid permeable cover layer, absorbent system and impervious barrier layer as shown in figure 2) having a main body with a longitudinal axis, two opposite longitudinal side

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areas and a central region intermediate said two opposite side areas, said sanitary napkin being characterized by a preferential bending zone (7) on the main body extending obliquely from one longitudinal side area of the sanitary napkin to an opposite longitudinal side area and obliquely crossing the longitudinal axis of the sanitary napkin at the central region as set forth in figures 1 and 3 – 4. Additionally, figures 1 and 3 – 4 show a plurality of preferential bending zones spaced apart from each other, intersecting and being arcuate. The sanitary napkin includes a flap fastener as set forth in figures 1 and 4.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glasgow et al. (EP 0 852 938 A2).

The difference between Glasgow and claims 2 and 13 is the provision that the sanitary napkin has a thickness not exceeding 5mm.

It would have been obvious to one of ordinary skill in the art to modify the thickness of the Glasgow napkin to have a thickness not exceeding 5mm since it has been held that where the general conditions of a claim are disclosed in the prior art,

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discovering the optimum or workable range includes only a level of ordinary skill in the art.

Additionally, it is well known in the art to manufacture thinner absorbent articles in order to reduce the bulkiness of the article making it more comfortable to the wearer while reducing the possibility of the article being seen through clothing.

Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 297 03 589 U1.

The difference between DE 297 03 589 U1 and claims 2 and 13 is the provision that the sanitary napkin has a thickness not exceeding 5mm.

It would have been obvious to one of ordinary skill in the art to modify the thickness of the Glasgow napkin to have a thickness not exceeding 5mm since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range includes only a level of ordinary skill in the art.

Additionally, it is well known in the art to manufacture thinner absorbent articles in order to reduce the bulkiness of the article making it more comfortable to the wearer while reducing the possibility of the article being seen through clothing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

*Michele Kidwell*

Michele Kidwell  
August 21, 2003

*Weilun Lo*

WEILUN LO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700